

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL MYERS,

Petitioner,

v.

HEIDI WASHINGTON,

Respondent.

Case No. 13-cv-12004

Honorable Laurie J. Michelson

Magistrate Judge R. Steven Whalen

**OPINION AND ORDER DISMISSING PETITION FOR WRIT OF HABEAS
CORPUS AS MOOT**

This is a habeas action brought pursuant to 28 U.S.C. § 2254. Petitioner Michael Myers challenges his convictions in Wayne County Circuit Court on two counts of first-degree criminal sexual conduct. Now before the Court is Respondent's "Suggestion of Death," in which Respondent asserts that the case has been rendered moot by Petitioner's death on October 31, 2014. (Dkt. 10.) Petitioner's attorney has not submitted a response.

Respondent has submitted a Certificate of Death and Myers' offender profile from the Michigan Department of Corrections Offender Tracking Information System ("OTIS"), which shows that Petitioner has been discharged from custody due to death. (Dkts. 10-1; 10-2.) A prisoner's death during the pendency of his habeas petition renders his habeas action moot. *See Claiborne v. United States*, 551 U.S. 87 (2007) (per curiam opinion vacating circuit court judgment as moot due to death of petitioner); *McMann v. Ross*, 396 U.S. 118 (1969) (same); *Beach v. Humphries*, 914 F.2d 1494 (table), 1990 WL 140574, *1 (6th Cir. Sept. 21, 1990); *accord Griffey v. Lindsey*, 349 F.3d 1157 (9th Cir.

2003); *Figueroa v. Rivera*, 147 F.3d 77, 82 (1st Cir. 1998); *McMillin v. Bowersox*, 102 F.3d 987 (8th Cir. 1996); *Knapp v. Baker*, 509 F.2d 922, 922 (5th Cir. 1975). Because Myers has died, the Court concludes that his habeas claims and this case have been rendered moot.

Accordingly, the Court DISMISSES the petition for a writ of habeas corpus. The Court also DENIES a certificate of appealability as jurists of reason could not debate the correctness of this procedural ruling. *See* 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b); *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000). This case is closed.

IT IS SO ORDERED.

s/Laurie J. Michelson
LAURIE J. MICHELSON
UNITED STATES DISTRICT JUDGE

Dated: January 15, 2015

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing document was served on the attorneys and/or parties of record by electronic means or U.S. Mail on January 15, 2015.

s/Jane Johnson
Case Manager to
Honorable Laurie J. Michelson